

ATTACHMENT B

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FILED

SEP 29 2005


CLERK

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

LARSON MANUFACTURING
COMPANY OF SOUTH DAKOTA, INC.,
a South Dakota corporation,

Plaintiff,

-VS-

ANDERSEN CORPORATION,
a Minnesota corporation; and
EMCO ENTERPRISES, INC.,
a Minnesota corporation,

Defendants.

CIV 04-4120

ORDER

The Court ordered the parties to inform the Court of their positions on the issue of whether this action should be stayed pending the United States Patent and Trademark Office's ruling on a reexamination request for the patent at issue in this case. Larson Manufacturing requests that this action be stayed, but the Defendants resist a stay.

The Court granted a motion to stay the proceedings in the case of *Larson Manufacturing Co. v. Aluminart Products Limited*, CIV 03-4244, pursuant to the parties' agreement in that case that the Court should grant the stay pending reexamination proceedings before the United States Patent and Trademark Office. The patent involved in the *Aluminart* case is the same patent at issue in these proceedings. Following the Court's request for a status report in the *Aluminart* case, defense counsel informed the Court that the reexamination proceedings are ongoing and that they will likely continue for a period of time. Defense counsel in the *Aluminart* case suggested that a further status report may be in order around January 1, 2006. The Court will exercise its discretion to grant a stay in this action in the interest of judicial economy pending the United States Patent and Trademark Office's

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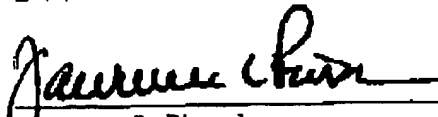
reexamination proceedings regarding the patent at issue in this case. *See Contracting Northwest, Inc. v. City of Fredericksburg, Iowa*, 713 F.2d 382, 387 (8th Cir. 1983) (recognizing that federal courts have the inherent power to issue a stay when the interest of justice so require). Accordingly,

IT IS ORDERED:

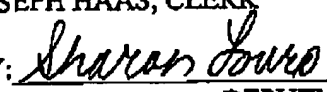
1. That this action is stayed pending the conclusion of the United States Patent and Trademark Office's reexamination proceedings regarding U.S. Patent No. 6,618,998.
2. That Plaintiff shall notify the Court within ten days after the reexamination proceedings are complete.

Dated this 29th day of September, 2005.

BY THE COURT:


Lawrence L. Piersol
Chief Judge

ATTEST:
JOSEPH HAAS, CLERK

BY: 
DEPUTY